

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DAVID LORENZA JOYNER, #1230707 §
 §
VS. § CIVIL ACTION NO. G-06-728
 §
THOMAS A. DAVIS, JR., ET AL. §

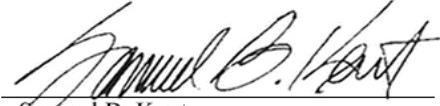
OPINION AND ORDER

Before the Court is the “ Petition for Writ of Habeas Corpus/Coram Nobis Challenging the Constitutionality of 28 USCA Sec. 1915(g) and the Court’ s Orders Enforcing It as a Criminal Sanction” filed by Plaintiff, David L. Joyner, a Texas prisoner; the Court will treat the Petition as a Motion to Proceed In Forma Pauperis.

In his “ Motion” Joyner argues that § 1915(g) is unconstitutional because it impedes his right of access to the Courts by conditioning his filing of a lawsuit upon payment of the filing fee. This issue has been specifically addressed and rejected in Carson v. Johnson, 112 F.3d 818, 821-822 (5th Cir. 1997), and is, therefore, the prevailing law in the Fifth Circuit. Since Fifth Circuit authority controls the decision making of this United States District Court, Joyner’ s Motion must be denied.

It is, therefore, the **ORDER** of this Court that Joyner’ s Request to Proceed In Forma Pauperis in contravention of § 1915(g) is **DENIED**.

DONE at Galveston, Texas, this 20th day of March, 2007.



Samuel B. Kent
United States District Judge